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ENVIRONMENTAL ASSESSMENT BOARD

VOLUME: 310

DATE: Wednesday, May 15, 1991

BEFORE:

A. KOVEN	Chairman
E. MARTEL	Member



FOR HEARING UPDATES CALL (COLLECT CALLS ACCEPTED) (416)963-1249

EARR &
ASSOCIATES
REPORTING INC.

(416) 482-3277

2300 Yonge St., Suite 709, Toronto, Canada M4P 1E4



Ontario

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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

IN THE MATTER of a Notice by The Honourable
Jim Bradley, Minister of the Environment,
requiring the Environmental Assessment
Board to hold a hearing with respect to a
Class Environmental Assessment (No.
NR-AA-30) of an undertaking by the Ministry
of Natural Resources for the activity of
Timber Management on Crown Lands in
Ontario.

Hearing held at the Offices of the Ontario
Highway Transport Board, Britannica Building,
151 Bloor Street West, 10th Floor, Toronto,
Ontario, on Wednesday, May 15th, 1991,
commencing at 2:00 p.m.

VOLUME 310

BEFORE:

MRS. ANNE KOVEN
MR. ELIE MARTEL

Chairman
Member

A P P E A R A N C E S

MR. V. FREIDIN, Q.C.	)	MINISTRY OF NATURAL
MS. C. BLASTORAH	)	RESOURCES
MS. K. MURPHY)	
MR. B. CAMPBELL)	
MS. J. SEABORN	)	MINISTRY OF ENVIRONMENT
MS. N. GILLESPIE)	
MR. R. TUER, Q.C.	)	ONTARIO FOREST INDUSTRY
MR. R. COSMAN	)	ASSOCIATION and ONTARIO
MS. E. CRONK	)	LUMBER MANUFACTURERS'
MR. P.R. CASSIDY	)	ASSOCIATION
MR. H. TURKSTRA		ENVIRONMENTAL ASSESSMENT BOARD
MR. J.E. HANNA	)	ONTARIO FEDERATION
DR. T. QUINNEY	)	OF ANGLERS & HUNTERS,
MR. D. HUNTER		NISHNAWBE-ASKI NATION and WINDIGO TRIBAL COUNCIL
MR. J.F. CASTRILLI)	
MS. M. SWENARCHUK	)	FORESTS FOR TOMORROW
MR. R. LINDGREN)	
MS. B. SOLANDT-MAXWELL)	
MR. D. COLBORNE	)	GRAND COUNCIL TREATY #3
MS. S.V. BAIR-MUIRHEAD)	
MR. C. REID	)	ONTARIO METIS &
MR. R. REILLY	)	ABORIGINAL ASSOCIATION
MR. P. SANFORD	)	KIMBERLY-CLARK OF CANADA
MS. L. NICHOLLS	)	LIMITED and SPRUCE FALLS
MR. D. WOOD	)	POWER & PAPER COMPANY
MR. D. MacDONALD		ONTARIO FEDERATION OF LABOUR

APPEARANCES (Cont'd):

MR. R. COTTON		BOISE CASCADE OF CANADA LTD.
MR. Y. GERVAIS	)	ONTARIO TRAPPERS
MR. R. BARNES	)	ASSOCIATION
MR. R. EDWARDS	)	NORTHERN ONTARIO TOURIST
MR. B. McKERCHER	)	OUTFITTERS ASSOCIATION
MR. L. GREENSPOON	)	NORTHWATCH
MS. B. LLOYD)	
MR. J.W. ERICKSON, Q.C.)		RED LAKE-EAR FALLS JOINT
MR. B. BABCOCK	)	MUNICIPAL COMMITTEE
MR. D. SCOTT	)	NORTHWESTERN ONTARIO
MR. J.S. TAYLOR	)	ASSOCIATED CHAMBERS OF COMMERCE
MR. J.W. HARBELL	)	GREAT LAKES FOREST
MR. S.M. MAKUCH	)	PRODUCTS
MR. D. CURTIS	)	ONTARIO PROFESSIONAL
MR. J. EBBS	)	FORESTERS ASSOCIATION
MR. D. KING		VENTURE TOURISM ASSOCIATION OF ONTARIO
MR. H. GRAHAM		CANADIAN INSTITUTE OF FORESTRY (CENTRAL ONTARIO SECTION)
MR. G.J. KINLIN		DEPARTMENT OF JUSTICE
MR. S.J. STEPINAC		MINISTRY OF NORTHERN DEVELOPMENT & MINES
MR. M. COATES		ONTARIO FORESTRY ASSOCIATION
MR. P. ODORIZZI		BEARDMORE-LAKE NIPIGON WATCHDOG SOCIETY

APPEARANCES (Cont'd):

MR. R.L. AXFORD	CANADIAN ASSOCIATION OF SINGLE INDUSTRY TOWNS
MR. M.O. EDWARDS	FORT FRANCES CHAMBER OF COMMERCE
MR. P.D. McCUTCHEON	GEORGE NIXON
MR. C. BRUNETTA	NORTHWESTERN ONTARIO TOURISM ASSOCIATION

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1 ---Upon commencing at 2:10 p.m.

2 MADAM CHAIR: Please be seated.

3 We thank the parties' very much for coming
4 here today on very short notice and we are interested
5 to hear what the parties have to say.

6 We have a problem: The Ontario
7 Federation of Anglers & Hunters have not submitted
8 witness statements and the reasons why they haven't
9 done that are set out in at least two pieces of
10 correspondence that I asked Mr. Pascoe to circulate to
11 the parties.

12 We have received advice from our counsel,
13 Mr. Herman Turkstra, to the effect that the Board
14 doesn't have a lot of remedies with respect to this,
15 although one consideration is that the OFAH not present
16 a case to the hearing, that by not having their witness
17 statements in on time they forfeit their participation
18 at the hearing. That is a remedy that has been
19 suggested to us.

20 We have not made any decision on this
21 matter. So far as we are concerned, it is our hope
22 that the OFAH will begin its case as planned early in
23 November and we are waiting for a response from Mr.
24 Hanna and Dr. Quinney.

25 Forests for Tomorrow wrote to the Board,

1 and I believe everybody received a copy of that letter,
2 and essentially they were asking: What is going on,
3 and you need some direction with respect to your
4 consultant's reviewing the OFAH's witness statements in
5 preparation to address whatever it is you want to
6 address in their case. That's the background as to why
7 we are here.

8 One other matter is that in the last few
9 days we instructed our counsel, Mr. Turkstra, to
10 approach the Ministry of Natural Resources to find if
11 there was some way of assisting the OFAH with respect
12 to having some funding to prepare their witness
13 statements so that they, in fact, are not in a position
14 of not meeting deadlines and putting their
15 participation in the hearing at risk. We haven't heard
16 from MNR about that and I don't know if we're going to
17 today or not.

18 I think the best way to proceed is to
19 hear from -- Mr. Hanna, do you want to go briefly over
20 how you see your position now and what you've asked the
21 Board to do and where you think you're going with all
22 of this, and then we would be interested to hear from
23 the other parties and, of course, any solutions to this
24 impasse are most welcome from our point of view.

25 Go ahead, Mr Hanna.

1 MR. HANNA: Thank you, Madam Chairman.

2 I am not going to reiterate the two
3 pieces of correspondence that you've had circulated to
4 the parties. There are several points that I will
5 highlight that I think are important for us to
6 recognize at the outset.

7 The OFAH approached you on November 21st
8 for the very express purpose of indicating to you that
9 we were not going to present a case, and that's a
10 decision that had been made by the Federation from the
11 perspective of financial constraints solely, that
12 reason and that reason alone.

13 In the directive that you circulated on
14 November 8th you indicated that if parties were
15 experiencing financial constraints that they should let
16 that be known to the appropriate bodies and that
17 measures might be taken to secure additional intervenor
18 funding.

19 That was the first time the Federation
20 had heard that there was a potential for additional
21 intervenor funding when it --

22 MADAM CHAIR: We might add, Mr. Hanna, at
23 the November 21st meeting was the first time the Board
24 had heard that the OFAH might withdraw from the
25 hearing. We had not been informed of that, other than

1 when you stood up and made that submission.

2 MR. HANNA: Yes, Madam Chair, that's
3 correct, and I had not mentioned that to the Board
4 ahead of that time. However, the decision that had
5 been made was, in essence, that we would not present a
6 case, it was not total withdrawal, that we couldn't
7 afford to present a case.

8 And it was on that basis that I
9 approached you on November 21st, that basis being that
10 there was potential for additional intervenor funding.

11 Then I indicated to you the case that we
12 would like to call, and it was nothing more than a wish
13 list because we had reached the decision that we did
14 not have the resources to present a case and that was a
15 decision, as I indicated to you, brought about after
16 considerable difficulty, trying to search for all
17 different options to try and deal with it - there were
18 none - and it was a decision the OFAH had reached with
19 great difficulty.

20 In my submissions to you on November 21st
21 I indicated to you that we would present a case if
22 substantial intervenor funding was made available to
23 us, and I suggested to you a schedule or an
24 approximation of a schedule that might be reasonable in
25 the event that the award for intervenor funding was

1 made available by mid-February.

2 As you know, that has not occurred; there
3 has, however, been an order-in-council issued by the
4 government setting aside \$450,000 of intervenor funding
5 and that money will not be distributed likely before
6 mid-June at the earliest.

7 The OFAH, as you may or may not know, has
8 made submissions to the Intervenor Funding Panel on two
9 occasions in the past. In the first application it was
10 denied any funds whatsoever; in the second application
11 it was awarded less than 10 per cent of what it made
12 application for and that that was awarded was less than
13 5 per cent of the total amount of money available, or
14 about 5 per cent of the total amount of money that was
15 available.

16 There is nothing to suggest to the
17 Federation that history will not repeat itself, and
18 that is only reinforced by the current fact that there
19 are nine parties vying for the \$450,000 currently
20 available and that the total applications total greater
21 than \$1.5-million.

22 The OFAH's circumstances have net changed
23 materially since I stood before you on November 21st in
24 1990. The OFAH has not prepared any witness
25 statements, the OFAH has not authorized the initiation

1 of the preparation of any witness statements, and it
2 has not done so because it is in the same circumstances
3 it was on November 21st, and prior to that, when it
4 made the decision not to submit a case to the Board.

5 I was concerned by the letter that was
6 sent to the Board on May 13th, 1991 for several
7 reasons. There are statements in the letter that are
8 clearly inaccurate and I believe may be prejudicial to
9 the OFAH. The OFAH is currently seeking legal advice
10 and, once that legal advice has been received, there
11 will be correspondence on the matter.

12 MS. SEABORN: Excuse me, Mr. Hanna. Is
13 this Mr. Turkstra's letter you're referring to?

14 MR. HANNA: Yes.

15 MS. SEABORN: I wasn't sure.

16 MR. HANNA: His letter of May 13th, 1991.

17 MS. SEABORN: Thank you.

18 MADAM CHAIR: Excuse me, Mr. Hanna.

19 We're sort of scratching our heads. Do you think
20 there's something prejudicial in that letter about the
21 OFAH?

22 MR. HANNA: Yes. It's not my intention,
23 Madam Chair, this afternoon to get into that debate. I
24 don't feel it's possible and, if we can avoid it, I
25 would be happy to avoid it. I would much rather talk

1 about what we can do to remedy the situation we're
2 currently facing.

3 But I simply have to bring that to the
4 Board's attention, that it is something that has caused
5 the OFAH considerable concern and they are seeking
6 independent legal advice on it.

7 In terms of a remedy to the situation, I
8 have a proposal to make. And while I will say to the
9 Board it is an ambitious proposal, I believe it is a
10 proposal that is consistent with the Board's rulings in
11 the past and the requirements that other parties have
12 had to face in terms of submission of witness
13 statements and interrogatories, and that if substantial
14 intervenor funding is made available to the OFAH, it is
15 achievable.

16 It will not be achievable without
17 extraordinary effort by the OFAH, unfortunately myself
18 and a number of the witnesses that we are calling, but
19 I think it can be done. I'm prepared to make that
20 commitment to you, but I emphasize it's a commitment
21 hinging on the OFAH receiving substantial intervenor
22 funding.

23 Before I present that to you, I would
24 suggest that it may be necessary for us to sit on this
25 same matter after June 15th or whenever the intervenor

1 funding decision comes down because, depending on what
2 that decision contains, our course of action may have
3 to alter again, and I think that is important for the
4 Board to recognize.

5 In terms of the overall conduct of the
6 case, in the event that the OFAH does not have the
7 resources to present a case, the Board will know that
8 hopefully by mid-June or shortly thereafter and, given
9 that our participation is not expected until the middle
10 of November - November 12th - there is a considerable
11 amount of time to reschedule other parties, if that
12 proves to be necessary.

13 I don't believe there are any other major
14 parties following us, except for NOTOA, and so that I
15 think the gap can be filled in.

16 Madam Chair, this is a revised schedule
17 for the OFAH witness statements that I would like to
18 circulate to the parties and the Board at this time.

19 MADAM CHAIR: Go ahead, Mr. Hanna.

20 MR. HANNA: (handed)

21 MADAM CHAIR: Thank you. Mr. Hanna, what
22 does this schedule mean with respect to starting a
23 case? If you're going to present a case, when would
24 the examination of the witnesses begin?

25 MR. HANNA: Madam Chair, I have based

1 this schedule on the schedule that the Board has
2 established.

3 MADAM CHAIR: Oh, all right.

4 MR. HANNA: And I have done everything in
5 my power to maintain the continuity of the evidence so
6 that the length of the hearing is not extended in any
7 way whatsoever, and in order of the logic behind the
8 schedule, it's based upon intervenor funding being made
9 available by mid-June.

10 The two and half months that I referred
11 to in November the 21st in terms of preparation of the
12 witness statements and a remaining 78-day window before
13 the first panel would have to be called, so that we're
14 still in compliance with the basic schedule that the
15 Board has established in terms of notice to the parties
16 in terms of preparing for the evidence before it being
17 called.

18 The first witness statement is due the
19 end of August and we would be appearing November 12th,
20 and you can see that there's over 70 days of window
21 there.

22 Those are my submissions at this time,
23 Madam Chair. Thank you very much.

24 MADAM CHAIR: Thank you very much, Mr.
25 Hanna.

1 Who wishes to speak to this matter,
2 first; Ms. Swenarchuk?

3 MS. SWENARCHUK: I have very brief
4 comments, Madam Chair.

5 I addressed our correspondence to the
6 Board only because we hoped to have the matter
7 addressed in some way and I have no comments further
8 than that, except with regard to what I took last year
9 to be an undertaking by the OFAH to produce Dr. Jack
10 Ward Thomas as a witness.

11 And we have a real concern, if the OFAH
12 should decide not to present a case, that this person's
13 testimony then will not be heard here.

14 You will recall that both parties,
15 Forests for Tomorrow and OFAH, were talking - unknown
16 to each other - to Dr. Thomas. Given the undertaking
17 by the OFAH, we did not pursue the matter any further,
18 we did not call the man, and we expressed at the time
19 our concern that we felt his evidence would be of great
20 assistance to the Board, and I would hope that that
21 undertaking given last year remain in effect,
22 regardless of what else the Federation determines with
23 regard to the rest of its case.

24 MR. HANNA: Madam Chair, I had
25 contemplated that and in no way intended to avoid

1 having Dr. Thomas come before the Board. I think, as
2 Dr. Baskerville indicated to you, I think the Board
3 would be benefitted greatly by his evidence.

4 There are two remedies to that that I
5 have considered. The preference of the Federation
6 would be, in the event that we aren't presenting a
7 case, that we would make application to the Board to
8 support the original application by FFT to have Dr.
9 Thomas appear as a Board witness; if that was not
10 acceptable, then I would stand by the undertaking you
11 originally made and call Dr. Thomas as the sole witness
12 on behalf of the Federation.

13 MADAM CHAIR: In any possible scheduling
14 that you have been able to do, Mr. Hanna, have you
15 investigated the availability of Dr. Thomas?

16 MR. HANNA: Dr. Thomas. The last time I
17 spoke to Dr. Thomas he said: Give me six months of
18 notice, and I said: Well, it will probably be the end
19 of December, '90. He said: Well, I can probably work
20 that in.

21 And I quite honestly was -- it's been
22 very difficult for the Federation to deal with all of
23 its witnesses because of the circumstances that there's
24 a number of people that are willing to appear on behalf
25 of the Federation that are extremely committed to

1 provide their evidence to the Board, and so it's made
2 it very difficult, and I'm sure you can appreciate,
3 these people have both personal interest and
4 professional interest, and Dr. Thomas is not alone in
5 terms of the uncertain circumstances he's found himself
6 in.

7 MADAM CHAIR: Ms. Swenarchuk -- oh, Mr.
8 Cassidy?

9 MR. CASSIDY: It's quite all right. I
10 just wanted to ask Mr. Hanna a question about what he
11 proposes to do, but I can deal with that later.

12 MADAM CHAIR: Let's just move on from
13 this point. And before we do, Ms. Swenarchuk, are you
14 satisfied that Dr. Thomas will get before the Board as
15 a witness?

16 MS. SWENARCHUK: Well, the first proposal
17 that the Board call him could lead to his being here.
18 In the event the Board decides not to call him, or if
19 the OFAH then calls him, that's what Mr. Hanna is
20 saying, then presumably he'll appear.

21 MADAM CHAIR: All right, fine, I think we
22 can finish that topic.

23 But whether the Board calls Dr. Thomas as
24 a witness or OFAH does, I think Dr. Thomas -- we should
25 know his availability and you will keep in

1 communication with him, Mr. Hanna?

2 MR. HANNA: Oh, definitely. In fact, he
3 has been notified that the tentative schedule for the
4 Federations's case beginning is November 12th, 1991.
5 He's aware of that, but he's also aware of the
6 uncertainty of the Federation in terms of its overall
7 case.

8 MADAM CHAIR: All right, thank you.

9 MR. HANNA: But I will definitely keep in
10 touch and I will contact him following this meeting.

11 MADAM CHAIR: Thank you.

12 Anything else, Ms. Swenarchuk?

13 MS. SWENARCHUK: No.

14 MADAM CHAIR: Mr. Cassidy?

15 MR. CASSIDY: If I might be permitted
16 just to ask some questions of Mr. Hanna about his
17 proposed schedule, Madam Chair.

18 My question was that, am I correct that
19 this schedule is based upon Mr. Hanna getting the
20 amount of funding that he believes is appropriate to
21 paramount this effort?

22 MADAM CHAIR: Well, that is what Item 2
23 says.

24 MR. CASSIDY: Well, what my question is
25 directed at is, there may come a time at which he may

1 be able to do part of this, and he may decide that with
2 "x" amount of dollars he has to cut it down, and what I
3 was wondering is if he could undertake to give us
4 notice of that as soon as possible when he makes that
5 decision, because perhaps going forward from today -
6 assuming this is acceptable to the Board - and organize
7 our affairs based on this, if we were given notice as
8 soon as possible if this is going to change, that is
9 what I'm lock looking for, if you can hear me.

10 MADAM CHAIR: Yes, I can hear you over
11 the -- is this the truck blockade?

12 MR. CASSIDY: Are they coming to this
13 building?

14 MR. MARTEL: This is the Ontario Highway
15 Transport Board, yes.

16 MR. CASSIDY: That is why I asked.

17 DR. QUINNEY: Madam Chair, you're quite
18 right, that is exactly what it is.

19 MADAM CHAIR: Is that what's going on out
20 there.

21 Mr. Hanna, you have said to the Board
22 already that you would like to request that the parties
23 get together and reassess the situation once the
24 intervenor funding panel decision has been made.

25 MR. HANNA: Yes, Madam Chair.

1 MADAM CHAIR: And at that point Mr.
2 Cassidy will learn, along with the rest of us, what the
3 schedule will be, what you will intend to do, and I
4 think that is as far as we can go with that today.

5 MR. CASSIDY: All right, thank you.

6 MADAM CHAIR: So by mid-June, Mr.
7 Cassidy, we should.

8 MR. CASSIDY: Have a pretty good handle
9 on where we're going. Thank you.

10 MADAM CHAIR: Have a schedule, if this
11 goes into place.

12 Ms. Seaborn?

13 MS. SEABORN: Yes, Madam Chair.

14 In relation to this issue our concerns,
15 like everyone's here I think, is that the OFAH case
16 start on time on November 12th. We will certainly do
17 whatever we can to expedite the review of witness
18 statements to meet this schedule.

19 In terms of Mr. Hanna's position on
20 mounting a case directly tied to the funding decision,
21 I think what we would like to know before there would
22 be another meeting of all the parties is to receive
23 from Mr. Hanna in writing within a very short time
24 after the funding decision which panels they intend to
25 call, who the witnesses would be, and what topics they

1 intend to address. I think that would solve the
2 difficulty with Mr. Jack Ward Thomas and it would also
3 solve the concern that Mr. Cassidy expressed about
4 having an idea of whether there will be 10 panels or
5 less than 10 panels.

6 MR. CASSIDY: I totally agree with Ms.
7 Seaborn on that. That is the essence of what I was
8 asking, because I'm going go forward based on the
9 comments made on November 21st of the outline, and if
10 it's going to vary, that is exactly what I'm looking
11 for, is what Ms. Seaborn has just referenced.

12 MS. SEABORN: And I would certainly
13 recommend to my clients that we support this proposal.
14 If Mr. Hanna things this is workable, then we're
15 prepared to go along with it.

16 But at the same time I would also see
17 this as a maximum amount of time in terms of delivery
18 of the witness statements. If Mr. Hanna intends on
19 delivering six witness statements, then I would hope we
20 could all have them by a date in October rather than
21 taking the topics and not receiving the witness
22 statements until right before the case starts.
23 Certainly the earlier we get the witness statements
24 before the evidence begins assists everyone in the
25 interrogatory process.

1 So I'm not sure if I've made myself clear
2 but, again, I would see this as being the maximum
3 amount of time for delivery of witness statements
4 because this is based on a full case which, as I
5 understand what Mr. Hanna says, a complete case is tied
6 to the amount of intervenor funding.

7 MADAM CHAIR: Well, I think it's clear
8 what we would do in the event you were able to afford
9 to present a case, we would meet after the intervenor
10 funding decision was made, we would revisit this
11 schedule to see if it still stood, if you still wanted
12 to follow it, the parties would know the topics of your
13 witness statements and the witnesses you were going to
14 call, and if through the process of putting together
15 your interrogatories you had to deliver at the same
16 time or whenever they were ready, we shouldn't be bound
17 to stretching them out, that the parties would be
18 willing to receive them as soon as they were done, and
19 maybe sometimes in whatever order they were finished.

20 I know it's not a matter of everything
21 being done, you know, in some very rigid order.

22 MR. HANNA: I always would undertake to
23 the Board, Madam Chair, to come back to you once the
24 intervenor funding panel decision is released to
25 provide the information that Ms. Seaborn has requested.

1 MS. SEABORN: All right. Thank you.

2 MR. MARTEL: Somewhere in Fort Frances.

3 MR. HANNA: I haven't been to Fort
4 Frances in a while. I would enjoy going back, Mr.
5 Martel, I'm not sure the Federation enjoys paying me to
6 go there.

7 MS. SEABORN: The last point, Madam
8 Chair, if I could and I'll complete my comments, is a
9 letter was sent to all the parties from NOTO a couple
10 of weeks ago saying that they also had some difficulty
11 in determining when they could file their witness
12 statements based on the intervenor funding decision,
13 and I'm wondering whether we could also request of NOTO
14 that they provide the Board with an indication, in a
15 short period of time after the decision, how much
16 evidence they intended to call and when they thought
17 they could have that evidence ready, because that will
18 assist all of us as well.

19 MADAM CHAIR: I think that is a sensible
20 suggestion. I had Mr. Pascoe, when he called the
21 parties to inform them of the meeting today, to tell
22 NOTO nothing would be decided with respect to their
23 scheduling and what we would do.

24 From the various indications we have been
25 given, their case is not going to take very long to put

1 in. We don't have any details on it, but we certainly
2 wanted to concentrate on what the Federation would do.

3 But I see nothing wrong in having Mr.
4 Pascoe -- we will write to NOTO and tell them that we
5 plan to meet -- there's another letter from NOTO
6 today - I don't know if the parties received it, we
7 just got it - it's dated May 15th, and it doesn't bear
8 on what we're talking about today, but I think NOTO
9 will be receptive to hearing that we are going to
10 revisit this after the intervenor funding decision has
11 been made and we would like some decision from them at
12 that time.

13 MS. SEABORN: Thank you.

14 MADAM CHAIR: Ms. Murphy, do you have
15 anything to add to this discussion?

16 MS. MURPHY: I have very little to add.
17 I spoke to Mr. Hanna earlier about this and I
18 understood from him that he was suggesting these dates
19 in order to meet the 70-day rule that generally
20 applies, and we looked at it and I spoke to him, I
21 said, we're prepared to do whatever we could to manage
22 the situation, and we are pleased to do that.

23 We also have the same planning concerns
24 that the other parties have, but the suggestion sounds
25 pretty sensible.

1 And the other concern I have also was
2 that were the planning of these things to deal with the
3 notice situation dealt with similarly, I'm sure we can
4 manage.

5 MADAM CHAIR: Yes. You know, the Board
6 has always been very skeptical about the value of
7 interrogatories with respect to cutting down
8 cross-examination. Maybe it works sometimes, maybe it
9 doesn't, but we don't want to spend -- we don't want
10 the starting date of your case to be set back because
11 of some problem with interrogatories.

12 We feel that if shortcuts need to be made
13 with respect to getting on with OFAH's case, if they
14 put one in, then the Board is not going to require that
15 the interrogatory schedule be adhered to in a way that
16 doesn't make sense. That's how we feel about it.

17 We're not saying we expect you to examine
18 witness statements and get interrogatories out within
19 two days, but that's where we want to see parties move
20 quickly, and if schedules have to be met that's where
21 we want to see it, not in the starting date of the
22 case.

23 Is there anything else we should talk
24 about today with respect to the situation of the OFAH?

25 MS. SEABORN: Madam Chair, we won't know

1 until after the funding hearing is over when the
2 decision is likely to be made. I would hope that we
3 could revisit this issue before the summer break and
4 have the matter determined some time in June, and I
5 don't know what we can say other than making comments
6 on the record to the Funding Panel that we hope that
7 the decision does come out in June to allow us enough
8 time to deal with it, because it will be awkward if it
9 goes into July.

10 MADAM CHAIR: I will ask Mr. Pascoe to
11 send a copy of this brief transcript to the Funding
12 Panel and I will ask that the Funding Panel inform us
13 in advance of the timing of the release of their
14 decision.

15 If they can tell us when they think they
16 are going to release a decision, then perhaps we can
17 plan to set a meeting data a few days or a week after
18 that. And I don't know how much advance notice they
19 can give us, but presumably a few weeks or a week or
20 something.

21 As Mr. Martel points out, it's important
22 that we have this resolved before the beginning of July
23 because people just aren't going to be around, so we
24 will work very hard to do that.

25 All right, and we thank you very much.

1 Thank you very much, Mr. Hanna, for
2 proposing what might be a solution to the Board.

3 I think Mr. Martel and I have found
4 ourselves in a difficult circumstance because we don't
5 believe these sorts of hearings should be conducted by
6 being coercive of the, we think all of the parties who
7 have participated in the hearing so far have done it
8 with great costs with respect to their resources and
9 their energies, and we don't think it's in the interest
10 of this hearing for any of the major parties who have
11 been with us for three years to not continue.

12 On the other hand, the Board would
13 certainly understand a decision by the Federation that
14 you were unable to continue, but your participation
15 presumably would not stop completely.

16 We have the evidence of many of your
17 members in the field; on our satellite hearings you
18 have been represented by many, many of your members; we
19 have your cross-examination on record, you are involved
20 in the negotiation process.

21 Whether you can afford or decide to
22 proceed with a case, you have certainly made some
23 significant contribution to the hearing so far and I'm
24 sure that the Federation is well aware of that, and I
25 hope that we will put the final details on this matter

1 in June.

2 Thank you.

3
4 ---Whereupon the hearing was adjourned at 2:50 p.m., to
5 be reconvened on Wednesday, May 22nd, 1991, at the
6 Inn of the Woods Hotel, Kenora, Ontario commencing
7 at 2:00 p.m.

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